

## Exhibit C



## **Findings**

### **Background**

On September 21, 2012, the City set a public hearing to be held on October 9, 2012 to begin the 180-day process to discuss with the current contractor and other interested parties, options for the future collection of garbage, recycling, problem materials (metals and mattresses), and yard wastes for one-half of the City's dwelling units (MRI-side of the City).

On October 9, 2012, a Public Hearing for Intent to Organize Collection was held at the Transportation and Public Works Committee of the Minneapolis City Council.

On October 25, 2012 – the City adopted a Resolution of Intent to begin the 180-day process to organize the collection of solid waste in the City and inviting the participation of interested parties in planning and establishing the organized collection system. On January 29, 2013 – Minneapolis Public Works gave a receive and file update to the Transportation and Public Works Committee on the planning portion of the 115A process. This ended the first 90 days of planning and began the 90 day discussion phase.

### **Organized Collection Planning and Discussion**

In May of 2007, the Council adopted Organized Collection Goals, which were used to evaluate the proposed collection methods during the planning period, and upon conclusion of the 90-day discussion period. These goals are:

1. Maintain or exceed the current high level of customer satisfaction for solid waste and recycling services.
2. Provide solid waste and recycling collection services in the most cost-effective manner possible, while meeting Clean City objectives.
3. Recognize the need for a comprehensive waste collection program that meets the unique physical and demographic challenges of a core urban city.
4. Protect the health and safety of City residents and visitors by minimizing disruption of collection services due to natural events, labor disputes or Incidents of National Significance, or change of haulers.
5. Comply with City policies on Small and Minority Owned Businesses, Living Wage and Domestic Partner Benefits, and anti-discrimination requirements.

After completion of the planning process the City conducted a 90-day discussion period regarding possible solid waste organized collection arrangements with interested parties who contacted the City in person or in writing. (See Exhibit B). The interested parties list includes all licensed haulers from Minneapolis and the metro area and their legal representatives as well as labor representatives.

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After three meetings during the planning portion of the process and two meetings during the “discussion” portion of the process, no consensus was achieved on possible organized collection arrangements. To engage discussion, staff sent the following letter to the interested parties on March 19, 2013.

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**Department of Public Works**

**Division of Solid Waste & Recycling**  
309 Second Avenue South - Room 210  
Minneapolis MN 55401-2281

Office (612) 673-2917  
Fax 673-2250  
TTY 673-2157



March 19, 2012

**Greetings:**

As you are aware, the City of Minneapolis current contract with MRI will expire soon. As part of the City's deliberations on this matter, the City is following the procedures set out in Minnesota Statutes, Section 115A.94 to seek advice and input from all licensed haulers in the City of Minneapolis and other interested parties.

Thank you for your involvement in the 115A - organized collection process for the City of Minneapolis. Your attendance at prior meetings, discussion or written correspondence is appreciated.

What is anticipated to be the final meeting for haulers and interested persons has been scheduled to continue discussion relating to organized collection.

Date/Time: Tuesday, March 26, 2013 at 4:00 p.m. to 5:00 p.m.  
Location: North Commons Community Center – Multi Purpose Room A  
1801 James Avenue North, Minneapolis MN

Organized Collection webpage: [www.minneapolismn.gov/solid-waste/WCMS1P-100890](http://www.minneapolismn.gov/solid-waste/WCMS1P-100890)

In discussing the possible organized collection arrangements to be used by the City, the primary issue that has been raised is related to whether or not there will be a requirement for "labor peace", as defined by Minneapolis City Council Resolution 2007R-454, in the next contract. Written and verbal comments have been received by the City, both in support of and in disagreement with requiring "labor peace" in a future agreement. At the next meeting, the City seeks your specific comments providing relevant facts and analysis related to the relevant factors that the City's Permanent Review Committee shall consider in making a recommendation about the need and appropriateness of labor peace language. The factors to be considered in determining whether or not to include a labor peace requirement include the following:

- a. Whether the city has a proprietary interest in the contract for services
- b. The dollar value of the contract
- c. The duration of the contract
- d. The adverse financial or economic impact of any disruption of services
- e. The cost associated with finding replacement services
- f. The risk of disruption of services
- g. Whether or not City owned property is involved
- h. Any other relevant factors.

Please make comments discussing these factors and whether based on these factors inclusion of a labor peace provision in the proposed contract is appropriate for this coming contract.

Please also make comments on the impact of including or not including a labor peace provision on possible organized collection arrangements.

March 19, 2013

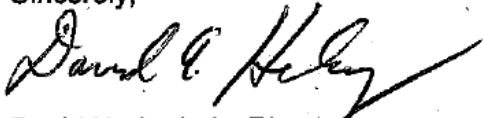
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In addition to the opportunity provided at this meeting, I would be happy to receive your written thoughts and comments on this matter. Please submit any written comments by April 25, 2013 at 4:30 PM to me at:

309 2<sup>nd</sup> Avenue South, Room 210  
Minneapolis, MN 55401-2281

I hope that you will assist the City in this important decision by offering your interest and expertise to this process.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Herberholz", with a stylized flourish at the end.

David Herberholz, Director  
Division of Solid Waste and Recycling

DH/jb

## **Positions of Interested Parties**

The positions of the various interested parties expressed during the discussion process are summarized below:

### Minneapolis Refuse, Inc.

MRI and their attorneys sent two letters to the City regarding organized collection. Both letters stated that they wish for labor peace language to remain in the organized collection contract and that the City Council maintain their existing Labor Peace Policy which was passed in 2007. They argue that "this policy was sought to promote the rights of working men and women, and to protect the City's financial, economic and proprietary interests so as to ensure that City contracts are performed without interruption from strikes or other disputes." "MRI and its members submit that nothing has changed over the past six years which would in any way undercut or take away from the City Council's wisdom in passing the Labor Peace Policy resolution in 2007."

MRI and its members did not object to the City's desire to issue a Request for Proposals during the 180 day planning and discussion process. They subsequently sent a letter asking for the City to negotiate solely with them and not to publish an RFP for the collection of garbage, recyclables, mattresses, problem materials and seasonal yard waste. They did not offer any alternatives to the current system of garbage and recycling collection in the City.

MRI and its members did request that the City award the contract to one collection vendor for the contracted side of the City. "One collection vendor ensures that it is accountable for all uncollected items and for damage claims and ensures that significant efficiencies will be achieved when there are program changes." "Consistent with the goal of this process and labor peace, choosing a single vendor like MRI, ensures that there will be no displacement of the numerous small

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businesses and no displacement of the union workers that make up MRI.” “If there is not a labor peace agreement and a contractor’s employees organize with a union, it is probable that their collective bargaining agreement would include the right to strike or lockout.”

### Other Licensed Haulers

Aspen Waste Systems, a licensed hauler that is not a member of MRI, sent one letter and attended several meetings. They are interested in participating in the residential collection system in the City of Minneapolis and indicated several reasons why they can serve the City well. They previously competed in the RFP process and would have been awarded, but they lacked the labor peace provision in their “Waiver of Claims and Covenant Not to Sue” which was submitted as per the City attorney’s request. Aspen is based in the City and allege that they provide more jobs in the City than any other licensed hauler. Their founder and president lives in the City. They have customer satisfaction that meets or exceeds comparative standards. After submitting this letter, they did vocalize that if labor peace were included in the contract they would not submit a proposal.

Elite Waste Disposal out of Rogers and Jordan Minnesota also sent a letter to the City indicating that they are a local, family owned business who would be interested in providing garbage and recycling services should the labor peace policy ever change. They are a non-union company who feels they could provide superior service to the residents of the City of Minneapolis.

Several other private haulers attended meetings during the planning and discussion phase. These other haulers remained largely silent on the issue of organized collection in the City of Minneapolis. It is unknown at this time if other haulers would submit a proposal if labor peace was to remain in the organized collection contract.

### Labor Unions

Teamsters Local 120 attended several meetings and sent a letter, a power point presentation called “Trash and the Public Interest,” a news article about strikes disrupting garbage collection in Seattle and copies of the PRC findings from August 2007. In their letter they strongly urged labor peace be included in the organized collection contract and that there are many benefits which maximize efficiency and prevent work stoppages. “Work stoppages would present serious financial challenges to the City and could present serious safety concerns with new and inexperienced drivers. There is also a risk to public health and safety associated to the disruption of collection.” “It could affect the marketability of the city, cause accumulation of trash and foul odors, attract pests, vermin and potentially increase risk for communicable disease.”

The Minneapolis Regional Labor Federation attended meetings and also sent a letter supporting the City’s labor peace policy. Their viewpoints made at the meeting and in writing are very similar to the Teamsters. They noted that no public proposal has yet emerged as a credible alternative to labor peace that would ensure the prevention of work stoppages. “A labor peace requirement is a proven, effective tool to ensure that quality service continues without risking work stoppages. We urge the City to continue including a labor peace requirement in its requests for proposals, contracts and plan for solid waste collection.”

### Staff Recommendation

Staff recommends that the City issue a multi-sector Request for Proposals for Organized Collection of Garbage, Recyclables, Mattresses, Problem Materials and Seasonal Yard Waste for the contracted half of the City. The staff recommend that the Council determine the City is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest. The City Council should analyze the statutory factors as

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they existed at the time in regard to this RFP. It is the staff recommendation that the City resolution establishing City policy on the inclusion of a labor peace requirement be followed, and that the Permanent Review Committee make a recommendation to the City Council regarding whether or not a labor peace requirement should be included in the contract.

Minnesota Statutes, Section 115A.94, Subd. 4 (e) as it existed prior to May 8, 2013 requires that if the City is unable to agree on an organized collection arrangement with the majority of haulers, it must adopt specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

Therefore, staff recommends that the following Findings be adopted by the City:

The City of Minneapolis, makes the following:

## **SPECIFIC FINDINGS**

### **I. Description in detail of the procedures used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest:**

1. On October 25, 2012 the Minneapolis City Council adopted a Resolution of Intent to organize collection after conducting a public hearing regarding organized collection of residential solid waste within the City. Notice of the hearing was published at least two weeks prior to the hearing and notice of the hearing was mailed to persons known by the City to be licensed to operate solid waste collection services in the City as of the date of the resolution.

2. In November of 2012, the City sent hard copy notices to all licensed haulers within the City stating that the planning process was beginning and outlining methods of participation for licensed haulers. The City indicated that it was planning a series of public meetings for haulers to attend, and also that the City would be accepting written comments on the planning process as well.

3. In November of 2012, the City notified 139 hauler contacts, 127 neighborhood association contacts, and 69 labor contacts via email. A GovDelivery email list was established specifically for the 115A.94 process to inform interested parties about the planning process for organized collection. Each time a meeting was held, an electronic notice went out via the GovDelivery lists and physical copies of the meeting notice were sent to the licensed haulers.

4. The City established a public web site where all documents for the 2012/2013 planning process can be found and included the 2008 RFP and Map of Service Area. All meeting notes, and requested information by the attendees were also posted on line. Web Address: <http://www.ci.minneapolis.mn.us/solid-waste/WCMS1P-100890>

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5. The City then initiated the 90-day period for development of plans for organized collection. The City invited the assistance of all haulers licensed to operate in the City as of the date of the Resolution of Intent.

6. Meetings with interested licensed haulers and other interested parties occurred on November 13, 2012, December 11, 2012 and January 8<sup>th</sup>, 2013. The meetings were designed to obtain input on possible organized collection plans. The City solicited written comments regarding the planning process from interested parties. A summary of the planning process, dated April 25, 2013, is attached as Exhibit A.

7. On January 29, 2013 Minneapolis Public Works submitted a receive and file report to the City Council which outlined the first 90 days of planning and the next 90 days of discussion to begin.

8. A total of 39 persons were placed on the interested party list for the discussion period. This list included labor unions, legal representatives, City staff, and neighborhood groups. Nineteen licensed collectors were included in the list. A copy of the final interested party list is attached as Exhibit B.

9. During the 90-day discussion process, the City presented possible organized collection arrangements for discussion with the licensed collectors who had expressed interest. The possible organized collection arrangements discussed regarded the half of the City residences that are currently contracted for service with Minneapolis Refuse Inc. (MRI). The possible arrangements were:

A. Negotiate with all licensed collectors operating in the City who have expressed an interest to determine if an agreement can be reached between the City and the licensed collectors who have expressed an interest in participating in an organized collection arrangement.

B. Issue a Request for Proposals for contracted solid waste services for the entire contracted half of the City to be served by one contract, using the evaluation criteria passed by the Council on May 11, 2007. These criteria are found in Exhibit C. Evaluate all proposals submitted, including any submitted by Minneapolis Refuse, Inc. (MRI) or by any collector licensed in the City that has expressed an interest.

C. Issue a Request for Proposals for contracted solid waste services for the contracted half of the City to be divided into multiple segments and served through individual contracts. Evaluate all proposals submitted, including any submitted by MRI or by any collector licensed in the City that has expressed an interest.

D. Include labor peace provisions in all contract requirements.

E. Do not include labor peace provisions in all contract requirements.

9. At the meetings, participants were given the opportunity to suggest other possible organized collection arrangements; however, no significantly different arrangements were presented by the participants.

10. A total of 20 collectors participated in the process. Twelve of the collectors were part of MRI. As a result, the licensed collectors who were part of MRI constituted a majority of the interested licensed collectors in the City. If those 12 collectors are counted as one then there were 7 interested collectors licensed in the City.

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11. Staff recommends a competitive Request for Proposals (RFP) process for the residential solid waste collection. Organized Collection is one of the City's larger contracts with significant impacts on the City's quality of life and upon the desirability of the City as a place to live. This desirability has several aspects. One of these is the cost of being a Minneapolis resident. Part of keeping that cost down is minimizing the cost to the City of solid waste collection so that solid waste fees paid by residents can be minimized. Another aspect is the quality of solid waste collection services. Residents want to live in a City that is clean and picked up with minimal interference with residential life. A competitive process enables the City to compare pricing and service options in order to meet the City's organized collection goals. The City cannot properly negotiate on these items with a single entity if it has never given other entities a chance to make competing offers on price, modern (or even revolutionary) equipment and higher levels of service.

12. Any proposals submitted by MRI or any other collector licensed in the City that has expressed an interest will be considered.

13. The proposal process will be structured such that a proposer can propose on all or a subset of the collection segments. Thus, it is possible that one collector could be chosen to serve all of the multiple segments, or the segments could be divided among two or more haulers, depending upon evaluation of the proposals.

## **II. Evaluation of the proposed organized collection method in light of at least the following standards:**

a. Achieving the stated organized collection goals of the City.

The proposed organized collection method described above achieves the stated goals of the City. The use of a competitive RFP process will help the City accomplish its goal of a cost effective and efficient solid waste collection service. The RFP process will also enable the City to evaluate the ability of potential contractors to provide a high level of service. Further, by identifying in the RFP the stated goals of the City and requiring that each proposer describe how they will help meet the City's goals, the City will be able to evaluate and compare the ability of a variety of potential contractors to ensure that the City's goals can be met.

b. Minimizing displacement of collectors.

The proposed organized collection method minimizes displacement of collectors because a waste hauler could propose on all or a subset of the collection segments. Thus, it is possible that one collector could be chosen to serve all of the multiple segments, or the segments could be divided among two or more haulers, depending upon evaluation of the proposals. Awarding some or all of the segments to MRI and/or its member haulers would minimize or avoid displacement of MRI haulers. Thus, the multiple segment RFP has much greater potential to minimize displacement of haulers than the single contract RFP, which would be an "all or nothing" scenario. This optimizes the potential for the largest number of haulers to be available for service provision to the City, cushioning the City from the adverse effects that would occur if a sole hauler, such as MRI, were to default on its contract with the City.

c. Ensuring participation of all interested parties in the decision-making process.



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The competitive RFP process will provide all haulers that participated in the Organized Collection process the ability to make a proposal, which ensures their participation in the decision-making process. The open process has solicited the interest and participation of more haulers than ever before in the City's solid wastes collection service procurement process, indicating that more interested parties than MRI exist in the City. Additionally, the process has allowed Labor Unions and the Regional Labor Federation to participate in the process .

d. Maximizing efficiency in solid waste collection.

The competitive RFP process will enable the City to evaluate not only pricing options from various haulers, but also the ability to efficiently provide organized collection services through discussion of the prior service experience in the City and/or in other jurisdictions. The competitive RFP process will allow the City to benchmark its services and costs of service in the "City" side of operations, providing an independent analysis of City cost-effectiveness and service level. The City has attempted to benchmark its costs and services against other similarly sized cities, but differences in demographics, geography and climate conditions in those cities have not allowed a realistic comparison. The City has not had cost of service information from MRI; The City has only known the price that the City was contractually bound to pay MRI. The City could receive proposals that explore new and energy efficient methods for collection, strategies for increasing participation in solid waste and recycling programs, and cost savings strategies that different haulers employ.